IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 22419 of 2000

Between:

Jai Bharath Co-Operative Housing Society Ltd., Tab No.383

Rep. By its Secretary,K.E.N.Kumar, office at premises No.6-5-230/15,

Gandhinagar,Secunderabad.

..... PETITIONER

AND

1.A..P.State Wakf Board,rep. By its Chief Executive Officer, Office

at 2nd and 3rd floor, block no.M4,Manoranjan complex, Ajanta Gate

Exhibition Grounds, Mukarrram Jahi road, Hyderabad.

2.A.P,.Wakf Tribunal, Hyderabad, rep. By its Presiding Officer

Nampally station road, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of Writ of Prohibition, declaring that the second respondent has no jurisdiction either to entertain and try O.S.No.87 of 1999, O.S.No.124 of 1999 and O.S.No.128 of 1999 so far as the land in question in respect of Survey No.18/1 and 18/2 ad-measuring 9

acres, 11 guntas situated at Thirmulgherry (v) Secunderabad filed by the first respondent and direct to return the same as the lands in question neither surveyed nor published under Section 4 and 5 of registered under Section 36 of the Wakf Act or in any law for the time being in force as the said lands as Wakf lands and that Section 87 of the Wakf Act bars the initiation of the proceedings before the Wakf Tribunal and the Wakf Tribunal has no jurisdiction to entertain such proceedings initiated by the Wakf Board.

Counsel for the Petitioner:MR.K.LAXMAIAH

Counsel for the Respondents: MR.A.M.QURESHI ,Standing Counsel

The Court made the following :

ORDER

1. The petitioner herein who claims to be the claimant in respect of the property filed this Writ Petition inter-alia, seeking prohibition as against the suits filed by the respondent in O.S.No.87 of 1999, O.S.No.124 of 1999 and O.S.No.128 of 1999 in respect of the land in question.

2. The petitioner is contesting the said suit on various grounds, one such being that the Tribunal has no jurisdiction and since the said property is not registered, it could not be a Wakf Property and as such, the first respondent cannot file any such suits. The petitioner sought to place reliance on the evidence to the effect that there is an admission by the respondent herein to show that the property is not registered as Wakf. Since the said aspect is not being considered in spite of specific plea raised, this Writ Petition has been filed.

3. The learned Standing Counsel appearing on behalf of the first respondent submits that earlier the petitioner has filed an application in I.A.No.377 of 1999 raising the very same plea as to bar under Section 87 of the Wakf Act and the same was dismissed. The petitioner again filed revision in C.R.P.No.2707 of 2000, which was also dismissed as per the orders dated 08-08-2000. In view of the same, the Writ Petition is not maintainable.

4. Having considered the submissions made and on perusal of the entire material available on record, it is seen that the main petition on behalf of the petitioner is also coming up for consideration with the application filed by the petitioner, which was confirmed by this Court in the revision.

5. Having regard to the same, the petitioner is not entitled to invoke once again the jurisdiction of this Court under Article 226 of the Constitution of India

6. The learned counsel for the petitioner also submits that he filed another application and the same is still pending. It is for the Tribunal to consider all such applications and come to a conclusion and give finding after regular trial, In the circumstances, I do not find any ground in the Writ Petition.

7. Accordingly, the Writ Petition is dismissed. No costs.

21-07-2004.

Note: Issue copy in one week

Hsd

Asst.Registrar

//true copy//

Section officer

To,

1.2 C.D. copies

2.The Chief Executive Officer, AP State Waklf Board,Hyderabad.

3.The Presiding Officer, AP Wakf Tribunal,Hyderabad.